THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8282 of 2007

Dated: 20.04.2007

Between:

Raagichetukindi Ramachandraiah.

..... PETITIONER

AND

The Joint Collector-II, Ranga Reddy District, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.8282 of 2007

ORDER:

The petitioner is allegedly owner of land admeasuring Acs.2.15 gts in survey No.139 situated at Dulapalli Village, Qutubullapur Mandal, Ranga Reddy District. The petitioner statedly obtained Occupancy Rights Certificate (ORC) in respect of said land from second respondent under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Inams Act, for brevity) in 1996. In pursuance thereof, the petitioner allegedly obtained pattadar passbooks (PPBs) and title deeds (TDs) under the provisions of the Andhra Pradesh Rights in Land & Pattadar Pass Books Act, 1971. He alleges that third respondent challenging ORC issued in his (petitioner's) favour filed an appeal under Section 24 of the Inams Act before first respondent in case No.F1/4842/2005, but did not pursue the same, as a result of which, the same was dismissed for default. In 2006, second respondent issued notice dated 30.11.2006 requiring the petitioner to appear before him and submit documentary evidence in support of his (petitioner') claim. Assailing the same, the petitioner filed W.P.No.697 of 2007 before this Court, which was disposed of on 18.01.2007 directing second respondent to take necessary action after considering ORC that may be produced by the petitioner. When the petitioner appeared before second respondent, he was allegedly served with a copy of the order passed by first respondent in case No.F1/140/2006 dated 15.07.2006, whereunder while setting aside ORC dated 18.07.1996 issued to the petitioner, the matter was remitted to second respondent for *de novo* enquiry. This order is assailed in instant writ petition.

The learned counsel for the petitioner raised two submissions. First, he contends that when ORC was issued to the petitioner on 18.07.1996 after conducting enquiry, it was improper for second respondent to have initiated yet another enquiry at the behest of third respondent. Secondly he would submit that first respondent erred in entertaining/reopening the appeal filed by third respondent after lapse of about ten years, especially when earlier the appeal was dismissed for default and when third respondent did not file a separate application for condonation of delay. The petitioner also contends that before passing the order, first respondent did not issue notice to him.

Opposing the writ petition, the learned Assistant Government Pleader for Revenue (General-T) submits that as the matter was remanded to second respondent for *de novo* enquiry, no prejudice would be caused to the petitioner and therefore, interference by this Court is not called for.

A perusal of the order passed by this Court in W.P.No.697 of 2007

dated 18.01.2007 and the order dated 15.07.2006 passed by first respondent impugned in this writ petition would show that against ORC dated 18.07.1996, third respondent filed appeal which was remitted to second respondent. The latter in turn issued notice dated 30.11.2006 requiring the petitioner to produce documentary evidence before him. This was challenged in W.P.No.697 of 2007. This Court gave liberty to the petitioner to produce all evidence and second respondent was directed to take necessary action immediately. In view of such direction, this Court fails to understand as to how the challenge to the order passed by first respondent is again maintainable. Secondly a reading of impugned order would show that notice was issued to the petitioner and he was not present when the mater was taken up. Therefore, first respondent observed that the petitioner's claim for ORC is not clear and therefore, thought it fit to remit the matter to second respondent. There is, therefore, force in the submission of the learned Assistant Government Pleader that no prejudice would be caused to the petitioner. This Court, however, makes it clear that if ORC was issued to the petitioner on 18.07.1996 after giving notice to all the persons interested in the land, a second ORC cannot be issued. However, if ORC was issued to the petitioner without giving notice to all the persons interested in the land, it is always open to second respondent to consider the matter. This Court also observes that the petitioner may raise all objections before second respondent. As the enquiry is pending, this Court is not inclined to entertain the writ petition. If any adverse order is passed, it shall be open to the petitioner to raise all the grounds subsequently.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

20th April, 2007
ghn